

JAMES MURPHY WARD §
v. § CIVIL ACTION NO. 6:09cv66
DIRECTOR, TDCJ-CID §

The Petitioner James Ward, proceeding *pro se*, filed this application for the writ of habeas corpus under 28 U.S.C. §2254 complaining of the calculation of time credits on his sentence. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Ward asserts that he is entitled to time credits on his sentence from July of 1996 to August of 2003, based on a law enacted by the Texas Legislature in September of 2001. He filed two time credit dispute resolution forms, of which the first was filed on November 26, 2003, and denied on December 4, 2003, and the second was filed on December 19, 2003, and denied on December 31, 2003. Ward also filed a state habeas corpus application on September 28, 2004, which was denied on March 23, 2005; however, it is not clear whether this state habeas corpus application concerned Ward's time credit claim or another issue.

After review of the pleadings, the Magistrate Judge issued a Report on April 6, 2009, recommending that the petition be dismissed based on the expiration of the statute of limitations. The Magistrate Judge also recommended that Ward be denied a certificate of appealability *sua sponte*. A copy of this Report was sent to Ward at his last known address, return receipt requested, but no objections have been received; accordingly, he is barred from *de novo* review by the district

judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 6) is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled application for the writ of habeas corpus be and hereby is DISMISSED with prejudice. It is further

ORDERED that the Petitioner James Ward is hereby DENIED a certificate of appealability *sua sponte*. Alexander v. Johnson, 211 F.3d 895, 898 (5th Cir. 2000). Finally, it is

ORDERED that any and all motions which may be pending in this civil action are hereby DENIED.

So ORDERED and SIGNED this 8th day of June, 2009.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS
UNITED STATES DISTRICT JUDGE**